

Testimony in Opposition to HB 6267

James J Connolly, JD, PhD

When I was a child, my father taught me a simple moral principle: "When you point a finger at another person, there are three other fingers pointing right back at you." My father was an industrial accountant, not a psychologist, a psychiatrist or a minister. He had strong, simple principles about how people should live both in their families and in the larger world outside their families. I learned from his words and from his example that it is fruitless to bear long-term grievances against others and that no matter how badly we feel we have been hurt by others, each of us must have an open heart and be willing to start anew after personal setbacks without a sense of grievance.

Divorce is seen as a terrible thing. Families appear to be torn asunder. Children seem torn between their parents. But it is not the legal action of divorce that originates and perpetuates this suffering. It is the conflict between the parents and their inability or unwillingness to subordinate their wills to the ideal of family solidarity and the wellbeing of their children. It is a common fate today: To find oneself at a total impasse with the person that you most loved and to be forced to drive the wreckage of the relationship into a cold and seemingly uncaring portion of the legal system which both allows and compels you to put an end to the marriage that was once the very center of your greatest hopes and dreams.

It is impossible not to have a great sense of failure during the divorce process. It is impossible not to find oneself blaming other people as well as experiencing a great sense of shame. The pain of the family division that ends in divorce will usually last a lifetime. I know that personally, and so do some of the legislators on this Committee. When children are involved, everything is yet more complicated. The children are swept up into the pain of the division between the parents. Even if the parents are very gentle and well-intentioned people, the children of divorce will experience pain and confusion.

The desire to reduce the pain of these children has brought me and other mental health professionals to work with families during this extremely painful period in their lives. Some psychologists work as child custody evaluators. It is challenging work. A custody evaluator is called upon to identify in the midst of all the confusion, anger and pain of the family division the conditions that will allow the children to best recover from the agonizing situation into which they have been plunged due to no fault of their own. The professional canons of psychologists make it clear that our obligation as custody evaluators is to the children of the divorce. We are called upon to be as fair as possible to the parents, but it is to the future wellbeing and mental health of the children that we are primarily obligated.

Almost inevitably, at least one of the parents will feel slighted by the results of the custody evaluation. The more difficult the divorce and the greater the anger between the parents, the greater the likelihood that at least one of the parents will

feel the custody evaluator has been unfair to him or her. This is not a new phenomenon, and experienced custody evaluators have come to expect some instances of anger and recrimination from the parents who are part of the evaluation. When I reflect on my work as a custody evaluator, however, I am mainly struck by the fact that the great majority of these parents are somehow able to understand the good intentions of the evaluator and the fact that the analysis and recommendations of the report may be worth accepting as a way of finding some new and more stable foundation for the lives of their children. This sad but very real mutual respect between the family members who are evaluated and the custody evaluator is the general rule.

There are, however, those parents who rage is ongoing against the custody evaluator. Of course, people are free to disagree with professional opinions. That is their right, and it is one of the major principles on which our legal system is based. Most of the people who have extreme objections to the opinions of custody evaluators, however, also have extremely negative reactions to their own attorneys, the opposing attorneys, the judges and practically everyone else involved in the divorce process. The typical pattern of this small but very vocal group of divorcing and divorced parents is to blame practically everyone else in the divorce process for the pain and difficulty they have experienced. This is the small group of divorced parents who have decided not to put away the fiery pain of their emotional suffering, but to fan it. One common pattern among them is to run through several attorneys and then proceed as a self-represented party, very often eventually filing hundreds of motions in court over a period of many years, and invoking grievance procedures against attorneys, psychologist, judges, mediators and anyone else who might be involved in their divorce and post-divorce conflict. They are unable or unwilling to put down their anger and move on with their lives. They continue to point the finger of external blame without appreciating and internalizing the many indicators of their own responsibility for the many divorce and post-divorce difficulties in which they find themselves.

It is easy to see why most complaints against custody evaluators are considered retributive in nature. Most such complaints derive not so much from a deficiency or misconduct on the part of the evaluator but more from the hurt and rage that the complaining parent continues to feel about the divorce process. In Connecticut, parents are free to bring their complaints to the Department of Public Health which has oversight concerning the professional activities of all psychologists. The complaints they have against their custody evaluators can then be assessed by experts who are knowledgeable in the field of custody evaluation. Few of these complaints are substantiated. This is due to the fact that the complaints derive not from actual professional deficiencies of the evaluators but from the emotional abreactions of the divorcing parent. Fortunately, there are clear professional standards for the conduct of child custody evaluations, and these standards guide the process of investigation and determination of the merits of complaints against custody evaluators. Meritorious complaints against custody evaluators, though rare, are actionable.

This brings us to the proposal embodied in HB6267. This proposal is for a task force to study the DPH " investigation and hearing process and the department's role in providing oversight of mental health professionals involved in custody matters within the family court system." This proposed task force is being pushed forward by the movement of a minority of angry divorced parents that has taken hold in Connecticut over the last five years. The strategy behind the proposal of this task force concerning DPH disciplinary procedures is to capitalize on last year's legislative task force regarding GALs in the Family Courts. Despite the fact that many Connecticut GALs were making valiant efforts to assist divorcing families in Connecticut to find a way to reduce their pain and conflict, the lack of enunciated professional standards for GALs and the lack of an established complaint procedure for GALs were clearly problems, and some aspects of the GAL reforms passed by the legislature last year may turn out to be improvements.

That was last year. This is a new year, and a completely different sort of problem. The attempt to empanel yet another new task force, this one to study disciplinary proceedings in DPH against mental health professionals working in the Family Courts is superficially an effort by the movement of angry divorced parents to force their perspective of professional discipline onto DPH and the psychological profession. It is unprecedented and unwarranted. It needs to be understood that the aim of this extremist divorced parent movement is not the reform of the Family Courts but rather the dismantling of the Family Courts. A look at the portion of the blogosphere devoted to the angry divorced parents movement definitely reveals that their motive is destructive rather than constructive. Judges, attorneys, psychologists and many others are constantly excoriated by name, and calls for eliminating most of the key components of the Family Courts are incessant. Most disturbing, the Family Courts are incessantly compared to organized crime organizations by this group of divorced parents (regardless of how unlikely and bizarre that appears to objective observers). These people honestly believe that the judges, attorneys and psychologists (who they view as having ruined their lives) deserve to be imprisoned and will be imprisoned as a result of their incessant efforts.

The idea that a group that has already announced itself as a practical and legal adversary to custody evaluators should be embedded in the professional disciplinary proceedings against the evaluators is, simply stated, absurd. Should a political pressure group that has announced its hostility to the performance of surgery be given a special role in oversight of the performance of surgery? Should an extremist anti-vaccination group be given a special role in DPH disciplinary proceedings so that they could spread their antipathy toward vaccines by enforcing harsh new standards against doctors who dispense vaccines? Putting these angry litigants in a position to affect the disciplining of custody evaluators would not be very different than these other proposals.

Furthermore, empanelling the proposed Task Force under HB6267 would simply serve as a platform for this group of embittered divorced parents to endlessly

relitigate their divorce cases. Mounting an appeal of the outcome of their divorces to higher courts would be expensive and would likely not be successful. But the embittered parents see the Connecticut Health Department as a venue in which they have a free shot to argue and agitate to undo the results of their divorce cases by attacking the findings and the professional integrity of the custody evaluators. Make no mistake: The aim of these parent proponents of HB6267 is to attack and intimidate custody evaluators, not to bring about any actual reforms.

The Connecticut state legislature is at a crossroads with this group of embittered divorced parents. The choice is unfortunately very simple: The legislature can pander to this highly vocal extreme group and facilitate their aim of the dismantling of the Family Courts OR the legislature can stand up for the independence of the Judicial Branch and the ability of the Family Courts to continue to function free of intimidation and obstruction.

If the legislature allows this movement of embittered parents to establish control of DPH disciplinary proceedings, mental health professionals will no longer be able to assist the Family Courts to promote the long-term wellbeing of some of Connecticut's most vulnerable children, and the project of the angry divorced parents to dismantle the Family Courts will be materially advanced. Either respect for the law or endless appeasement to an extremist pressure group will prevail. It cannot be both ways. Dante envisioned a special place in the afterlife for those who remain neutral in a time of moral crisis.